

Decision 02-08-035

August 8, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Dr. Augusto Baronio Martins,

Complainant,

vs.

Cingular Wireless (formerly known as
Pacific Bell Wireless)

(ECP) C. 01-06-040
(Filed June 19, 2001)

ORDER GRANTING APPLICATION
FOR REHEARING OF DECISION 01-10-011 FILED BY
DR. AUGUSTO BARONIO MARTINS

Dr. Augusto Baronio Martins (Applicant) alleged in his complaint (ECP) C. 01-06-040 dated June 19, 2001, that his wireless telephone service, Cingular One¹, was wrongfully disconnected for nonpayment of an April 1999 bill. According to Applicant, this bill was not sent to him until after his cellular service was cut off on January 27, 2000. Applicant asserts that not only did Cingular One fail to send him an April, 1999 bill before terminating service, but that once service was wrongfully cut off, Cingular One refused to reimburse him for the cost of the phone handset that could only be used with Cingular One

¹ Cingular One is a joint venture of SBC Communications Inc. and BellSouth Corp. and operates in the State of California under licenses held by Pacific Telesis Mobile Services and is registered as Pacific Bell Wireless.

service and demanded payment for the activation fee regarding that service. We held an unrecorded hearing on August 7, 2001, in San Francisco. At that hearing, Dr. Martins conceded that he owed Cingular One \$55, which included payment for his April, 1999 bill. Applicant agreed to pay this amount and in D.01-10-011 we note this agreement. However, a reading of the Complaint reveals that D. 01-10-011 failed to address other issues raised such as whether Dr. Martins should be reimbursed for the cost of the phone handset and the activation fee. There is no evidence that these issues were addressed at the hearing.

In D.01-10-011, we dealt exclusively with the issues surrounding why the phone service was discontinued. Thus, our Decision did not resolve the other issues in the complaint relating to whether Dr. Martins should be reimbursed for the cost of the phone handset and the activation fee. Since the hearing was unrecorded, it is unclear whether these issues were in fact heard. Consequently, we grant rehearing to determine whether Applicant should be reimbursed for his phone handset, activation fee, and any other unresolved issues in the complaint that are appropriate for resolution.

THEREFORE, IT IS ORDERED that:

1. The Application for Rehearing of D. 01-10-011 is granted.
2. A recorded hearing should be held to resolve all remaining issues raised by the complaint.

This Order is effective today.

Dated August 8, 2002 at San Francisco, California.

LORETTA M. LYNCH

President

HENRY M. DUQUE

CARL W. WOOD

MICHAEL R. PEEVEY

Commissioners

Commissioner Geoffrey F. Brown, being necessarily absent, did not participate.